

**OPINION
43-117**

September 24, 1943(OPINION)

WELFARE WORK

RE: Probate to Estates of Relief Clients -

States Attorneys - Duties

Your letter of August 31st addressed to L. I. Nicholson, state supervisor, has been referred to this office for attention and reply.

You state that your county Welfare Board questions the validity of the State's Attorney being given fees for handling county work, such as probate of estates of Old Age assistance recipients.

The Old Age Assistance Act of 1943 provides that: on the death of any recipient the total amount of assistance paid to him shall be allowed as a preferred claim against his estate, after funeral expenses, not to exceed \$125.00 and expenses of last illness which are authorized, are paid by the county agencies, and after the expense of administering the estate has been paid, including the attorney's fees approved by the court. It is the duty of the State's Attorney to take such action as may be necessary to enable the county or the state to present claims. To that end, it may be necessary for him to present a petition to the county court for the purpose of appointing an administrator; - in fact, it is his duty to take such action as any other creditor of the estate would take to secure the payment of his claim.

However, it is not the duty of the State's Attorney to conduct the probate proceedings to a final closing of the estate without making a charge therefor, especially, in view of the fact that the statute referred to provides for payment of attorney's fees.

ALVIN C. STRUTZ
Attorney General